

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JAN 26 2018 ★

LONG ISLAND OFFICE

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STEFFAN BUMPERS,

Plaintiff,

-against-

SUFFOLK COUNTY POLICE DEPT., ET AL.,

Defendants.
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ORDER

17-CV-2169 (JFB)(AYS)

JOSEPH F. BIANCO, District Judge:

On December 12, 2017, Magistrate Judge Shields issued a Report and Recommendation (the "R&R," ECF No. 24) recommending that that this action be dismissed for failure to prosecute. The R&R was served on plaintiff on December 12, 2017. (ECF No. 26.) The R&R instructed that any objections to the R&R be submitted within fourteen (14) days of service of the R&R, *i.e.*, by December 26, 2017. (R&R at 5.) The date for filing any objections has thus expired, and plaintiff has not filed any objection to the R&R. For the reasons set forth below, the Court adopts the thorough and well-reasoned R&R in its entirety, and dismisses this case for failure to prosecute.

Where there are no objections to a report and recommendation issued by a magistrate judge, the Court may adopt the report and recommendation without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings."); *see also Mario v. P & C Food Mkts., Inc.*, 313

F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”); *cf.* 28 U.S.C. § 636(b)(1)(c) and Fed. R. Civ. P. 72(b)(3) (requiring *de novo* review after objections). However, because the failure to file timely objections is not jurisdictional, a district judge may still excuse the failure to object in a timely manner and exercise its discretion to decide the case on the merits to, for example, prevent plain error. *See Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003) (“[B]ecause the waiver rule is non jurisdictional, we ‘may excuse the default in the interests of justice.’” (quoting *Thomas*, 474 U.S. at 155)).

Although plaintiff has waived any objection to the R&R and thus *de novo* review is not required, the Court has conducted a *de novo* review of the R&R in an abundance of caution. Having conducted a review of the Complaint, the motion papers, and the applicable law, and having reviewed the R&R *de novo*, the Court adopts the findings and recommendations contained in the well-reasoned and thorough R&R in their entirety. Accordingly,

IT IS HEREBY ORDERED that this action is dismissed as to all defendants.

IT IS FURTHER ORDERED that defendants serve a copy of this Order on plaintiff.

SO ORDERED:

JOSEPH F. BIANCO
UNITED STATES DISTRICT JUDGE

Dated: January 26, 2018
Central Islip, NY